July 1987

The Battle for International Bank Accounts: Restrictions on International Payments for Political Ends and Article VIII of the Fund Agreement

Cynthia C. Lichtenstein
Boston College Law School, cynthia.lichtenstein@bc.edu

THE BATTLE FOR INTERNATIONAL BANK ACCOUNTS: RESTRICTIONS ON INTERNATIONAL PAYMENTS FOR POLITICAL ENDS AND ARTICLE VIII OF THE FUND AGREEMENT

CYNTHIA C. LICHTENSTEIN*

In recent years, governments have increasingly utilized controls on international payments to gain political leverage over other countries. This is often accomplished by blocking the bank accounts of the target countries.[1] While the aims of governments imposing such controls are often the same as in the case of controls imposed for political reasons on the international movement of goods, a different international legal regime applies to interferences with international payments.[2] The treaty establishing the latter regime, the International Monetary Fund Agreement,[3] provides for a compre-

* Professor of Law, Boston College Law School.

1. *See* Logan & Lichtenstein, *Political Dams Across Financial Flows*, in SOUTHWESTERN LEGAL FOUNDATION, PRIVATE INVESTORS ABROAD: 2 PROBLEMS AND SOLUTIONS IN INTERNATIONAL BUSINESS ch. 13 (Matthew Bender 1986) (discussing sanctions on payment flows).

2. To the extent that any nation's goods are treated in a discriminatory manner by an *importing* country's government, obligations under the General Agreement on Tariffs and Trade (hereinafter GATT) may be implicated. *See e.g.*, A. LOWENFELD, INTERNATIONAL MONETARY SYSTEMS 136-39 (2d ed. 1984) (discussing the import surcharge imposed by the Nixon Administration in 1971). The GATT, however, contains an exception to obligations incurred under it for restrictions on imports imposed for security reasons. General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. (5), (6), T.I.A.S. No. 1700, 55-61 U.N.T.S., art. XXI. However, unlike the Fund Agreement, *see infra* note 3, the GATT does not provide for a central international organization with the authority to examine restrictions for their conformity to the regime established. As for controls over exports, the much more frequent form of sanctions, international law does not generally address a nation's utilization of this form of pressure upon another nation. J. JACKSON, INTERNATIONAL ECONOMIC RELATIONS § 5.6 (1986).

3. Articles of Agreement of the International Monetary Fund, December 27, 1945, 60 Stat. 1401, T.I.A.S. No. 1501, 2 U.N.T.S. 39, *amended by* 20 U.S.T. 2775, T.I.A.S. No. 6748, 726 U.N.T.S. 266, 29 U.S.T. 2203, T.I.A.S. No. 8937 [hereinafter Fund Agreement]. The history of the Fund

hensive system of elimination of restrictions on payments for trade and services. However, the exception to the scheme for payment blockages for security reasons that has been created by the supervising international body, the International Monetary Fund (hereinafter IMF)[4] operates in practice to foster politically motivated restrictions. This Article examines the history of the IMF's involvement in such sanctions and suggests a way for the IMF to limit its role in the appreciation of their legality.

The period prior to World War II saw competitive devaluations of national currencies and the proliferation of exchange controls devastating to the international trading system. At the end of the War, states not only attempted to provide a comprehensive peace keeping regime through the United Nations, they also constructed at Bretton Woods in the Fund Agreement a comprehensive "code of conduct" for international monetary relations. One of the key purposes of this "code" was to eliminate restrictions on payments for current transactions in order to ensure that the desired rebirth and growth in international trade would not be impeded by the transaction costs of exchange control systems. In particular, article VIII, section 2 of the Fund Agreement states that ". . . no member shall, without approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions."[5]

This provision, however, is not absolute. The drafters of The Fund Agreement recognized that some countries would be at stages in their economic development that might prevent them from immediately complying with article VIII, section 2. Accordingly, they included article XIV, which provides a transitional regime for those countries initially un-

---

Agreement, the treaty embodying the nations' desire to restructure the international monetary system, will not be dealt with in this Article.

4. For a brief history of the founding of the IMF, see R. Edwards, International Monetary Collaborations ch. 1 (1985). Professor Edwards' recent book sets out an extraordinarily detailed and useful examination of the international monetary system, the relevant international organs, and the jurisprudence of the Fund. This Article draws heavily on Professor Edwards' chapter entitled "Exchange Controls," *id.* ch. 10, and, in particular, on the section entitled "National Security Restrictions." *Id.* at 415-20.

5. Fund Agreement, *supra* note 3, art. VIII, § 2(a).

able to tolerate an economic system without exchange controls. Countries that are unable to allow free convertibility of their currency may temporarily maintain or "adapt to changing circumstances" those restrictions in effect at the time they became members of the Fund.[6] However, article XIV countries must obtain Fund approval for restrictions imposed after their entry into the Fund Agreement, if these restrictions are not adaptations as described above. Thus, article XIV countries may need Fund approval for restrictions imposed for political reasons.

Under the Article VIII "code of conduct," countries may control "capital transactions," but they have promised not to restrict payments for "current transactions" without Fund approval.[7] Unless a member[8] receives Fund approval for the restriction, a restriction placed on a bank account that prevents the use of that bank account for making payments or transfers for current international transactions constitutes a violation of article VIII, section 2(a). Thus, if a member nation imposes restrictions that are subject to article VIII, section 2[9] on the bank accounts of a target country or its nation-

6. Fund Agreement, *supra* note 3, art. XIV. Article XIV provides that members who avail themselves of the privilege of exchange restrictions during the transitional period "shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund, and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the promotion of a stable system of exchange rates." *Id.* § 2. This provision demonstrates the purpose of the Fund Agreement to abolish exchange controls on payments for current transactions.

7. For a discussion of the elaborately articulated distinction between capital and current transactions, see 3 J. GOLD, THE FUND AGREEMENT IN THE COURTS 538-42 (1986); *see also* RESTATEMENT OF FOREIGN RELATIONS LAW OF THE UNITED STATES (REVISED) § 821, 1(v), at 601 (Tent. Draft No. 6, 1985) [hereinafter RESTATEMENT (REVISED)]; R. EDWARDS, *supra* note 4, at 394-96. It may assumed that demand deposit accounts at commercial banks are used to make payments and transfers for current international transactions. Thus, blocking orders covering such accounts implicate article VIII, section 2.

8. At present, most countries are members of the Fund, so the requirement is nearly universal.

9. To be subject to article VIII, section 2 the restriction must be imposed after the date of the member's entry into the Fund if the country is following the Article XIV regime.

als without receiving Fund approval, the sanctioning nation violates one of its international legal obligations.

Violations of this particular norm of international economic law are of interest to private economic actors because the Fund Agreement in one provision has application to private transactions, that is, to contracts. As noted above,[10] the drafters of the treaty recognized the impossibility for every country at all times to abolish exchange controls entirely. Article XIV countries, for example, would need to maintain their exchange controls until they reached a stage of development able to sustain free convertibility. Any country might need to temporarily impose restrictions on payments in the case of a temporary setback to the equilibrium of its balance of payments.[11] If a country imposes exchange controls for reasons consistent with the Fund Agreement, the treaty provides that other members, through their courts or administrative authorities, must not enforce private "exchange contracts" that violate these controls.[12] This obligation on other members, and their courts, is contained in the first sentence of article VIII, section 2(b), which reads: "Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member."[13]

If a private contract arguably falls within the definition of "exchange contracts" in article VIII, section 2(b),[14] a

10. *See supra* note 6 and accompanying text.

11. Even the United States, lynchpin of the international monetary system until 1971, found it necessary in August, 1971 to refuse to honor its commitment to the convertibility of official balances of dollars into gold. For the story of the United States' fall from grace and its efforts to stop its loss of gold, see A. LOWENFELD, *supra* note 2 at 113-43.

12. Other members must ensure that such contracts "[do] not receive the assistance of the judicial or administrative authorities of [such] members in obtaining the performance of such contracts." E.B. Decision No. 446-4 (June 10, 1949).

13. Fund Agreement, *supra* note 3, art. VIII, § 2(b).

14. The scope of the term "exchange contract" has been extensively debated; the arguments will not be repeated here. See, e.g., 2 J. GOLD, *supra* note 7, at 92, 425; R. EDWARDS, *supra* note 4, at 484-89. See also the discussion of the RESTATEMENT (REVISED), *supra* note 7, § 822, comment b, at 605.

court of a Fund member is required to give effect to the exchange controls of another member by refusing to enforce the contract violating the controls, providing all conditions of the provision are met.[15] The rule is a mandatory one, because each member state has promised not to enforce such contracts.[16] A court of a member state is bound by international law to carry out its state's treaty obligations.

A blocking order imposed on commercial bank accounts for political or strategic reasons falls within the meaning of the term "exchange control regulations." According to judicial decisions, this term encompasses all restrictions on "the making of payments and transfers for current international transactions," as well as "monetary controls imposed on capital movements."[17] Thus, article VIII, section 2(b) applies if the contract creating the deposit account is an exchange contract, and the blocking order is "imposed consistently with this Agreement."[18] A blocking order that restricts payments for current transactions out of a country's or its nationals' bank accounts must have prior Fund approval or it will not be consistent (because of the article VIII, section 2(a) obligation) with the Agreement.[19]

---

15. *See* RESTATEMENT (REVISED), *supra* note 7, § 822 (restating the rule and Comment). This rule reverses the former "revenue rule" of private international law under which the forum refused to recognize and give effect to fiscal measures, including exchange control regulations, of states other than the forum state.

As professor Edwards explains, when an exchange contract has its "situs" in the forum state and both the contract and a conflicting foreign exchange control regulation of another state meet the Fund Agreement criteria, this rule results in giving extraterritorial effect to a foreign exchange control regulation. R. EDWARDS, *supra* note 4, at 483.

16. R. EDWARDS, *supra* note 4, at 478 n.463.

17. *See id.* at 480-81. According to Edwards, judicial decisions support the view that the form, and not the purpose, of the measures determines whether they are exchange control regulations within the meaning of section 2(b). *Id.*

18. *Id.* at 481. "Member states of the International Monetary Fund may not enforce exchange controls involving the currency of another member state if such controls are contrary to that state's exchange control regulations maintained or imposed consistently with the Articles of Agreement of the Fund." RESTATEMENT (REVISED), *supra* note 7, § 822.

19. Letter from George P. Nicoletopoulos, then Director of the IMF Legal Department, to the Author (March 2, 1981) (on file with the Author).

This results in important consequences for a bank holding any deposit account of the country being sanctioned. If a sanctioning country has received Fund approval for the exchange restrictions of the blocking order, and the deposit account is an "exchange contract,"[20] the bank can refuse to repay the deposit in accordance with the blocking order. If the depositor, usually the target country, brings suit, the bank can rely on the court's duty under the treaty not to enforce the deposit contract. Commercial banks raised this defense in French and British courts following the Fund's approval of the currency restrictions that the United States imposed on Iran during the hostage crisis.[21]

Recently, the United States imposed economic sanctions against Libya in response to its alleged terrorist activity.[22] The Libyan sanctions contain a blocking order extending to all Libyan Government dollar deposits in foreign branches of U.S. banks.[23] This blocking order caught $131 million in deposits of the Libyan Arab Foreign Bank, an instrumentality of the Libyan Government, with the Bankers Trust Company's London branch. The Libyan Arab Foreign Bank demanded payment of its deposit. Bankers Trust, caught between the depositor and its own government's sanctions, refused payment and quickly became involved in litigation in London.[24] Although this litigation was recently concluded

20. For a definition of "exchange contract," see RESTATEMENT (REVISED), *supra* note 7, § 822. For a civil law country view, see Trib. Grande Inst. de Paris, 9e ch., 12 mars 1985 (Deine Deng Thi To Tem et autres c. Banque Française Commerciale).

21. R. EDWARDS, *supra* note 4, at 418. Iranian Government entities held large Eurodollar deposits with branches of U.S. banks in London and Paris. The U.S. sanctions, 44 Fed. Reg. 65,956 (1979) (codified in 31 C.F.R. pt. 535), purported to cover dollar deposits booked at branches of U.S. banks abroad. The Iranian entities brought suit for payment of their deposits. Before the French or U.K. courts handed down decisions, the Iranian Accords made the issues moot. *See also* W. CHRISTOPHER, AMERICAN HOSTAGES IN IRAN: THE CONDUCT OF A CRISIS (1985).

For a complete history of the Iranian sanctions, see Malloy, *The Iran Crisis: Law Under Pressure*, 1984 WIS. INT'L L.J. 15. For a contemporary commentary, see Gordon & Lichtenstein, *The Decision to Block Iranian Assets Reexamined*, 16 INT'L LAW. 161 (1982).

22. Exec. Order No. 12,544, 3 C.F.R. 182 (1986).

23. 31 C.F.R. § 550.516 (1986).

24. Libyan Arab Foreign Bank v. Bankers Trust Co., 1986 L. No. 1567 (Q.B. 1986) (lower court opinion). This litigation is fully described in an-

without consideration of the effect of article VIII on the deposit accounts caught by the blocking order, if the Libyan blocking order had been approved by the Fund,[25] and Bankers Trust had chosen to characterize the deposit contract as an exchange contract,[26] Bankers Trust could have argued that article VIII, section 2(b) required the British court to recognize the U.S. blocking order, regardless of the United Kingdom's view of so participating in sanctions against Libya.

But why should the Fund approve a restriction imposed on the bank accounts of a member nation for reasons having nothing to do with the United States' balance of payments or protection of its reserves? The purpose of article VIII is to strengthen the international trading system by encouraging freedom of payments for current transactions, according to

---

other article in this Symposium issue. See Weisburg, *Unilateral Economic Sanctions and the Risks of Extraterritorial Application: The Libyan Example*, 19 N.Y.U. J. INT'L L. & POL. 993 (1987) (elsewhere this issue).

25. The deposit account at issue in the case did not function as a means of payment for Libya's current transactions after 1980, but instead functioned as a "reservoir" to maintain a positive balance in plaintiff's correspondent account with Bankers Trust in New York. Libyan Arab Foreign Bank, 1986 L. No. 1567, slip op. at 8 (opinion of Lord Kerr). The U.S. blocking order, as applied to this account, could be characterized as a restriction on capital transactions that does not require approval of the Fund. However, the motivation for the imposition of the Libyan sanctions was neither to protect the reserve position of the United States nor to prevent capital flight; it was strictly a political or strategic sanction against Libya. Thus, the Libyan case is not an appropriate one for the application of article VIII, section 2(b), regardless of the nature (capital or current) of the account purportedly blocked by the sanctions.

26. This raises the question of whether the court should have raised the issue of article VIII, section 2(b) itself, given that the parties did not raise it. Article VIII is "public law" as a provision of a treaty to which the United Kingdom is a party and has such effect on the municipal law as the law of the forum gives it. The U.K. courts, however, view the meaning of "exchange contracts" narrowly, as did the U.S. court in Libra Bank Ltd. v. Banco National de Costa Rica S.A, 570 F. Supp. 870 (S.D.N.Y. 1983), which refused to apply article VIII, section 2(b) to a case involving the Costa Rican Government's restriction on repayment to U.S. lending banks of loans to Costa Rican entities on the ground that dollar loans from foreign banks are not "exchange contracts." It is thus not surprising that neither the court in the Libyan case, Bankers Trust, nor the U.S. Government raised the issue of article VIII, section 2(b). But see *infra* text accompanying notes 36-38.

each member's particular economic circumstances.[27] Presumably, the Fund uses the need of a member seeking to impose a restriction to protect its balance of payments and the role that the restriction is to play in the member's effort to return to equilibrium as the criteria for approving a restriction. The obligation of other members to help the troubled member through enforcing that member's exchange controls should only be triggered by restrictions that *are* consistent with the Fund Agreement.

The Fund faces a dilemma. Article VIII, section 2(a) does not distinguish among restrictions on current transactions imposed for economic reasons and those imposed to pressure a target government. The Fund wants members to comply with article VIII by imposing restrictions as required by the treaty. If the Fund were to renounce jurisdiction over a particular class of restrictions, it would be giving up a portion of its treaty-given oversight function. However, the Fund, as an international economic organization, does not have the capacity to judge the appropriateness of restrictions, discriminatory by definition and imposed for political or strategic reasons.[28]

Early in its history, the Fund confronted such a dilemma when, in 1950, the United States imposed non-wartime sanctions in the blocking and embargo actions taken against the People's Republic of China and North Korea.[29] The Fund's response was that of a cunning civil servant who neither wishes to meddle in his superior's political affairs nor to give up one ounce of his own authority. In 1952, the Executive Board promulgated a decision on Fund jurisdiction over payment restrictions imposed for security reasons.[30] In Deci-

27. *See supra* text accompanying note 6.

28. For a discussion of the Fund's dilemma and national security restrictions on international payments, see R. EDWARDS, *supra* note 4, at 415-20; Edwards, *Extraterritorial Application of the U.S. Iranian Assets Control Regulations*, 75 AM. J. INT'L L. 870 (1981) (a long analysis of article VIII, section 2(b) and the Iranian sanctions).

29. Malloy, *supra* note 21, at 24 n.49; R. EDWARDS, *supra* note 4, at 415 n.159; 2 J. GOLD, THE FUND AGREEMENT IN THE COURTS 365-66 (1982).

30. E.B. Decision No. 144-(52/51) (Aug. 14, 1952), *reprinted in* SELECTED DECISIONS OF THE INTERNATIONAL MONETARY FUND AND SELECTED DOCUMENTS 235 (10th issue 1983) [hereinafter SELECTED DECISIONS], *and in* 2 J. GOLD, *supra* note 29, at 366-67.

The decision, which remains in effect as originally formulated, stipusion No. 144, the Fund's Executive Board asserted the Fund's jurisdiction over *all* restrictions on payments for current transactions, but worked out a special procedure for restrictions "solely related to the preservation of national or international security."[31]

The member country, if it in its discretion determines that the reasons for the restrictions are so related, must promptly notify the Fund. The notice is circulated immediately to the Executive Directors. If it is not satisfied that the restrictions were "proposed solely to preserve such security," the Fund must notify the member within 30 days of receiving notification. Otherwise, "the member may assume that the Fund has no objection to the imposition of the restrictions."[32]

Sir Joseph Gold states that this assumption of "no objection" is equivalent to "approval," since there is "no middle legal ground between approval and nonapproval under article VIII, section 2(a)."[33] By providing for this procedure under E.B. Decision No. 144-(52/51), the Fund does not have to review the substance of the restrictions it accepts to ensure that they are being imposed solely for national or international security reasons. Members are nonetheless obliged to give extraterritorial effect to politically motivated blockings if the affected contracts are exchange contracts.[34]

Nations imposing sanctions are aware of this Executive Board Decision.[35] In the imposition of the Iranian sanctions,[36] and presumably the Libyan sanctions, the United

---

lates that article VIII, section 2(a), applies to all restrictions on current payments and transfers, irrespective of their motivation and the circumstances in which they are imposed because of the difficulty in distinguishing cases involving restrictions imposed solely for security reasons and those involving economic motivations.

31. E.B. Decision 144-(52/51), *reprinted in* SELECTED DECISIONS, *supra* note 30, at 235.

32. E.B. Decision 144-(52/51), *reprinted in* 2 J. GOLD, *supra* note 29, at 367.

33. 2 J. GOLD, *supra* note 29, at 368.

34. *See supra* text accompanying notes 12-16.

35. The Decision "has been invoked by more than 30 members of the Fund that were imposing restrictions in connection with a variety of international situations." 2 J. GOLD, *supra* note 29, at 366.

36. Campbell, *Allied Bank's Effect on International Lending, A Non-US Perspective*, 4 INT'L FIN. L. REV. 28 (1985). Barry R. Campbell has suggested

States notified the Fund of the imposition of the restrictions. When the Fund had not notified the United States of objection after 30 days,[37] the Iranian sanctions were deemed approved.[38] When Iran demanded repayment of its Eurodollar deposits held at U.S. bank branches in London and Paris, the private litigants cited this approval in the French and British courts to argue that their contracts with the government of Iran or its instrumentalities should not be enforced.

There has been a surprising lack of legal commentary on this special procedure through which the Fund ends up supporting extraterritorial effect for politically motivated restrictions on international payments.[39] The Fund's desire not to be a "forum for discussion of the political and military considerations leading to [sanctions] . . ."[40] is understandable. Nevertheless, the Fund should rethink the special approval procedure for national security restrictions. The imposition of sanctions through blockage of the means of international payments is exactly the sort of restriction on international payments that the Fund should not approve.

A country's decision to impose sanctions is made on strategic grounds,[41] not on its need to conserve its foreign

---

that any efforts by commercial banks to have the Fund issue a Decision adopting the narrow interpretation of "exchange contracts" or revising the national security Decision may not receive the assistance of the U.S. government. "When the U.S. attempted to obtain foreign recognition to the freeze of Iranian assets, it relied on this provision [article VIII, section 2(b)] and may very well wish to preserve a similar argument for the future." *Id.* at 29.

37. In the case of the Iranian sanctions, the Governor of the Central Bank of Iran did, in fact, object to the U.S. measures. 2 J. GOLD, *supra* note 29, at 367.

38. While the Fund "approved" the U.S. measures against Iran, it did not approve Argentina's attempt to suspend transfers by foreign investors during the Falkland Islands conflict. R. EDWARDS, *supra* note 4 at 417-18.

39. Exceptions include the treatment of Decision No. 144-(52/51) by Sir Joseph Gold, 2 J. GOLD, *supra* note 29, at 368, and the full discussion by Professor Edwards in his treatise, R. EDWARDS, *supra* note 4, and in his article entitled "Extraterritorial Application of the U.S. Iranian Assets Control Regulations." Edwards, *supra* note 28.

40. E.B. Decision No. 144-(52/51), *reprinted in* 2 J. GOLD, *supra* note 29, at 366.

41. In the case of the Iranian restrictions, the United States Government, or some officials thereof, claimed that a partial motivation for the blockage was fear of the Iranian threat to suddenly withdraw its Eurodollar

exchange as part of a particular economic restructuring or a temporary balance of payments adjustment. As a result, the blocking country interferes with current international payments for political reasons. If sanctioning restrictions are imposed by a country in accordance with its U.N. Charter obligations,[42] then the Fund should allow member countries to impose restrictions on the making of payments and transfers for international transactions. In other words, the purpose of the economic treaty should yield to the greater peacekeeping purpose of the Charter.[43] Beyond such internationally approved sanctions, the Fund, as the guardian of the free flow of payments throughout the global economic system, should not provide what amounts to blanket approval of payments restrictions imposed for political reasons. The Fund has never notified a country of its disapproval of the imposition of sanctions if the country has alleged national security reasons for the sanctions.[44]

The Fund should continue to maintain jurisdiction over all restrictions on payments for current transactions, but it should recognize that "it is sometimes best to leave restrictions unapproved."[45] The Fund should discontinue its special approval procedures for national security restrictions, and not approve sanctions restricting international payments that are imposed strictly for political reasons. While this approach may not deter governments who choose their strategic considerations over their international obligations,

---

deposits in U.S. banks. *See* Lissakers, *Money and Manipulation in Foreign Policy*, *cited in* 2 J. Gold, *supra* note 29, at 364 n.10, 365 n.13; W. CHRISTOPHER, *supra* note 21 (a discussion of this aspect of the hostage crisis); R. EDWARDS, *supra* note 4, at 419-20. The notifications sent to the Fund, however, did not cite these reasons, because the procedure in Decision No. 144 requires that the restrictions be imposed *solely* for reasons of national or international security in order for the special approval procedure to apply. If there are economic concerns for the government imposing the restrictions, these concerns should be independently reviewed and appraised by the Fund.

42. *E.g.*, U.N. Charter art. 25. An example of such an obligation is reflected in the Security Council resolution imposing multilateral sanctions on Rhodesia. S.C. Res. 217, 20 U.N. SCOR Res. and Dec. at 8-9, U.N. Doc. S/INF/20/Rev. 1 (1965).

43. R. EDWARDS, *supra* note 4, at 419.

44. *See* R. EDWARDS, *supra* note 4.

45. R. EDWARDS, *supra* note 4, at 419.

the Fund will not be in the position of approving restrictions which it ought to abhor.[46]

If the monetary controls are not approved restrictions under article VIII, section 2(a), then section 2(b) does not apply. A court which is asked to enforce sanctions will then look to private international law to determine their extraterritorial effect. In essence, the court will apply its domestic law, including private international law rules, act of state doctrine and/or comity rules, and any other principles concerning the recognition and enforcement of foreign public law.

In the case of restrictions on international financial flows for political reasons, the Author believes this would be a better procedure. Article VIII, section 2(b) is supposed to aid countries that need to maintain temporary exchange control regimes,[47] under the Fund's watchful eye. Article VIII, section 2(b) of the Fund Agreement clearly should not be applied to payments restrictions used as political weapons.

---

46. For a full exposition of the dangers which political restrictions on the flow of international payments pose to the international financial system, see Logan & Lichtenstein, *supra* note 1.

47. *See supra* text accompanying note 6.